

MEMO ENDORSEMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LISA VASQUEZ, On Behalf of Herself and on
Behalf of Her Infant DAUGHTER, J.V.

Plaintiffs,

-against-

THE REECE SCHOOL

Defendant.
-----X

Civil Action No. 1:22-cv-05986
(GHW-JW)

Application GRANTED.
SO ORDERED.

Jennifer E. Willis

Jennifer E. Willis, U.S.M.J.
9/20/2022

PROPOSED DISCOVERY PLAN

Proposed Discovery Plan

In accordance with Federal Rule of Civil Procedure 26(f) and Judge Willis's Individual Rules, the parties met on September 12, 2022 (at least one week before the Initial Case Management Conference) and are exchanging communications thereafter. At least one week before the Initial Case Management Conference, the parties submit the following report for the Court's consideration:

2. Summary of Claims, Defenses, and Relevant Issues

Plaintiff:

Defendant, acting under the color of state and federal law, deprived infant plaintiff of her rights to receive special education and services; discriminated against the infant plaintiff, a protected citizen under Section 504 of the Rehabilitation Act; retaliated against Plaintiff Lisa Vasquez for trying to enforce the infant plaintiff's rights; is liable for negligent supervision by allowing the infant plaintiff to be damaged in their school; is liable for negligent infliction of emotional distress for the same; and breached its contract with plaintiff Vasquez regarding her enrollment of the infant plaintiff at defendant's school.

Defendant:

Defendant maintains that it acted reasonably in all respects, that there was no breach of contract, that it made proper accommodations to the plaintiff, that the plaintiff made unreasonable requests and that the plaintiff left the school of her own volition. Further,

Defendant maintains that the Complaint fails to state a cause of action under Section 1983 of the Rehabilitation Act.

3. Basis of Subject Matter Jurisdiction: 28 U.S.C. Sec. 1331 - Federal question

4. **Subjects on Which Discovery May Be Needed**

Plaintiff(s):

Discovery of defendant's records regarding the school, the infant plaintiff and the incidents alleged in the complaint that form the basis of and are anticipated to support plaintiffs' claims.

Defendant(s):

Depositions of the plaintiff's on factual issues alleged and which would support the Defendant's defenses noted in 2 above.

5. **Informal Disclosures**

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure was* **disclosed by Plaintiff(s)** on 10/14/2022. In addition, on 10/14/2022, Plaintiff(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure was* **disclosed by Defendant(s)** on 10/14/2022. In addition, on 10/14/2022, Defendant(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

*will be disclosed

6. **Formal Discovery**

The parties jointly propose to the Court the following discovery plan:

All fact discovery must be completed by 5/19/2023.

The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided that the parties meet the deadline for completing fact discovery set forth in 3(a) above.

a. Depositions: Depositions shall be completed by 5/19/23 and limited to no more than TBD depositions per party. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.

b. Interrogatories: Initial sets of interrogatories shall be served on or before 10/31/2022. All subsequent interrogatories must be served no later than 30 days prior to the discovery deadline.

c. Requests for Admission: Requests for admission must be served on or before 10/31/2022.

d. Requests for Production: Initial requests for production were/will be exchanged on 10/31/2022 and responses shall be due on 11/30/2022. All subsequent requests for production must be served no later than 30 days prior to the discovery deadline.

e. Supplementation: Supplementations under Rule 26(e) must be made within a reasonable period of time after discovery of such information.

7. Anticipated Discovery Disputes

Are there any anticipated discovery disputes? Does either party seek limitations on discovery? Describe.

None at this time.

8. Amendments to Pleadings

a. Are there any amendments to pleadings anticipated? None at this time.

b. Last date to amend the Complaint: 3/17/2023

9. **Joinder of Parties**

- a. Are there other necessary parties that need to be joined? Y/N - Not at this time
- b. Is joinder of other parties anticipated? Not at this time
- c. Last date to join other parties: 3/17/2023

10. **Expert Witness Disclosures**

At this time, the parties do/do not (circle one) anticipate utilizing experts. Expert discovery shall be completed by 8/19/2023.

11. **Electronic Discovery and Preservation of Documents and Information**

- a. Have the parties discussed electronic discovery? Yes
- b. Is there an electronic discovery protocol in place? If not, when do the parties expect to have one in place? Not anticipated to be needed.
- c. Are there issues the parties would like to address concerning preservation of evidence and/or electronic discovery at the Initial Case Management Conference?
Not at this time.

12. **Anticipated Motions**

Defendant anticipates making a motion under Rule 12(c).

13. **Early Settlement or Resolution**

The parties have/have not (circle one) discussed the possibility of settlement. The parties request a settlement conference by no later than 4/15/2023.

The following information is needed before settlement can be discussed:

The parties have just begun discussing settlement and whether information is needed
is not known at this time.

14. Trial

- a. The parties anticipate that this case will be ready for trial by 9/20/2023.
- b. The parties anticipate that the trial of this case will require 5 days.
- c. The parties request a jury/bench (circle one) trial.
- d. The parties consent/do not consent (circle one) to Magistrate Judge jurisdiction at this time.

15. Other Matters

The parties are advised that they may consent to Magistrate Judge jurisdiction at any time during the case pursuant to 28 USC § 636(c). To consent to Magistrate Judge jurisdiction for all purposes or specific dispositive motions, please utilize the consent form on Judge Willis's Individual Practices Webpage.

Respectfully submitted this 12th day of September, 2022.

ATTORNEYS FOR PLAINTIFF(S):

Shaya M. Berger

ATTORNEYS FOR DEFENDANT(S):

David S. Rutherford